Open and Accountable Elections Meeting Minutes

*July 21, 2021*

**OAEC Members Present:** Amy Sample Ward, Norm Turrill, Sabra Purifoy, Jenny Lee, Courtney Helstein, Amy Ruiz, Anahi Rodriguez. **OAE Staff Present:** Director Susan Mottet and Deputy Director Daniel Lewkow. **OAEC Members Absent:** Berk Nelson and Cristina Nieves

7:05-7:10: Housekeeping

The meeting minutes for the OAEC’s June meeting were approved. Commissioner Purifoy abstained.

7:10-7:25: Program update

The recall efforts against Mayor Wheeler has begun. The campaign behind the effort picked up the petitions on July 8th—eight days later than they officially were allowed to—thus pushing back the timeline they had to collect the required signatures.

If the recall campaign succeeds in removing the Mayor and there is a special election, the OAE program will need extra funding to cover the heightened costs that come with an open mayoral race. However, the City Attorney has said that if any of the current City Commissioners file to run for the office, that they would have a conflict of interest from any vote on a potential funding request. And that could make it challenging to secure the minimum three votes needed to pass the request. However, Director Mottet proposed an option where our office clarifies that the funding request would only apply to candidates running in the special election, which could allow the Commissioners to vote on the proposal, as long as it was taken before the recall election occurred in November. Staff will keep the OAEC abreast of developments on this issue.

7:25-7:40: OAEC report feedback and approval

The Open and Accountable Election Commission’s Report on the 2020 election has been drafted. It was reviewed by the OAEC Subcommittee, with Chair Sample Ward and Commissioner Helstein editing the draft with staff and offering feedback (which was then incorporated into the current version that the full OAEC has today). Chair Sample Ward: we read the document and our primary recommendation was to make sure that the report was in plain language for easier reading.

Commissioner Purifoy: The report’s Executive Summary has nice things to say about the program, but it does not feel connected to the rest of the report’s findings. For instance, we know that small donor matching increased democracy engagement because the data shows that low-income neighborhoods donated at a higher rate. We need to make that connection clearer in the Executive Summary. Chair Sample Ward: Maybe we could make that connection clearer by referencing the particular pages in the Executive Summary, so that every time we summarize a finding, we point out which pages it can be found on? Commissioner Purifoy: it would help to cite or reference the particular data, goals, etc. in the Summary, including the pages that it can be found on.

Chair Sample Ward motioned to accept the OAEC Report, with the notes that Commissioner Purifoy offered. Commissioner Purifoy seconded the motion, and the OAEC approved it unanimously.

7:40-8:10: Charter amendment decisions discussion

Per the OAEC’s instructions, a Subcommittee drafted a proposed amendment to the Portland City Charter, for the Charter Review Commission to consider. The goal would be for the amendment to establish OAE as an office that had more protections for its independence, along with other changes that respond to administrative and community needs. The Subcommittee finished its process, and now the full OAEC can consider the amendment draft.

* Section 202: describes who can be appointed to the OAEC. The main question is which requirements go in the charter amendment, and which go in the OAE code? The Subcommittee recommended that the charter amendment include language about values (such as about the OAEC being accessible, inclusive, and representing the diversity of the city). The Subcommittee also recommended charter language prohibiting candidates, staff, and campaign vendors from serving on the OAEC. OAEC members offered no further concerns about these recommendations.
  + The Subcommittee recommended this appointment process: The Director solicits applications from the public, the OAEC selects the new members based on those applications, but the City Council has passive approval--meaning that if they do not act within a certain timeframe, that the appointments move forward and the new members are seated. This provides more protections for the OAEC’s independence, since its also the body that reviews and approves applications, while maintaining City Council’s ultimate oversight of the program’s administration. Commissioner Turrill: I am nervous about the idea of self-perpetuating boards. Chair Sample Ward: we accepted the reality that we are an independent commission but must still give the City Council a fail-safe to act, just in case. Commissioner Turrill: I am fine with this recommendation. OAEC members offered no further concerns about these recommendations.
  + The Subcommittee recommended that Commissioners can be removed by the City Council or the OAEC, but it must be done for due cause reasons only. Those reasons would be enumerated and specified in the OAEC bylaws. But an example could be the OAEC removing a member for not carrying out the commitment to inclusive democracy. Commissioner Turrill: could we make the decisions about the specific reasons when we amend the bylaws? Director Mottet: Yes that could work. OAEC members offered further no concerns about these recommendations.
  + Commissioner Ruiz asked if it was a problem that the language could preclude stipends, since it does preclude paying OAEC members. Commissioner Turrill: the state recently adopted a change that allows for per diem payments and expense reimbursements for those serving on public boards and commissions. Could we do the same? Director Mottet suggested adding language that would preclude payments “other than a modest stipend”. Chair Sample Ward: what if we just prohibited salaries but allowed for compensation? Commissioner Ruiz: maybe something like “all members may receive a per diem and reimbursed expenses in line with performing their duties”, to help align it with state language? Chair Sample Ward: maybe we say “members will serve without salary or compensation, except as otherwise provided by law”? Director Mottet said she would use this to draft the language. OAEC members offered no further concerns about these recommendations.
* Section 203: The Subcommittee recommended delegating the OAE program to this entity, but also allowing the entity to take on any additional elections work. Director Mottet: do we want to keep the language saying that the other work is “optional”, to allow the OAEC to refuse any work delegated to it if there are not enough resources? Commissioner Ruiz: I’m ok with this current language. The section also clarifies the values that the OAEC must consider when it makes recommendations. OAEC members offered no further concerns about these recommendations.
* Section 204: The Subcommittee recommended language allowing the OAEC to issue subpoenas and have them be enforced by the courts. Director Mottet: do we need this language in the charter amendment, or just in the OAEC’s bylaws. Commissioner Helstein: I don’t see any reason to remove that language. Commissioner Ruiz: it would be a problem if the City Council did not give enough resources to do things like rent office space. So perhaps we need language saying that the City shall provide sufficient resources to carry out the OAEC’s duties and cover administrative expenses?
* Section 205: The Subcommittee recommended language saying that the OAEC prepares and votes on the OAE budget, for the City Council to include in its budget (and only change if a majority of the Council votes to alter it). Director Mottet asked if the language could be more forceful, and possibly move it into the Powers subsection of Section 204. Commissioner Lee: should we articulate that the OAEC has the power to refer items for criminal prosecution? Director Mottet: I will ask the City Attorney’s office if that language would be necessary.
* Director Mottet: There are people who believe that Auditor’s office should not have anything to do with elections--even counting signatures or facilitating ballot access--and perhaps that should also be consolidated under the Portland Elections Commission. Commissioner Turrill: would that involve overseeing tabulations and the issuing of voter pamphlets or the collection of pamphlet drafts? Director Mottet: currently that is mostly handled the County, and not something that the Charter Review Commission has authority over. The Portland Elections Commission could take on counting signatures, but the City contracts that out to the County anyway so the actual signature counting would be minimal for any City office. Chair Sample Ward: we can say that if they give us it, they must also give us the resources to accommodate that work, so and it would be within our scope.

Commissioner Turrill moved to adopt the Subcommittee’s recommendations on the charter amendment language. Commissioner Helstein seconded it. Aye votes are Sample Ward, Purifoy, Helstein, Turrill, Lee and Ruiz, with Rodriguez abstaining.

8:10-8:30: Changes to Admin Rules, first discussion

The content for this discussion was not ready yet, so it will need to be considered at a later date.